

Message Text

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44

ORIGIN SS-15

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DRAFTED BY ARA:WHLUERS:CJS

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S/S:O A. OTTO

L: M. LEIGH(IN SUB.)

EB/TT/TD:MR. WHITE (DRAFT)

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FM SECSTATE WASHDC

TO USDEL SECRETARY PRIORITY

C O N F I D E N T I A L STATE 049298 TOSEC 060016

EXDIS FOR THE SECRETARY FROM ROGERS AND LEIGH

E.O. 11652: GDS

TAGS: EAIR, CU, CA

SUBJECT: BRIEFING MEMORANDUM: CUBAN OVERFLIGHTS

1. WE WERE TOLD FEB. 27 BY FAA THERE ALSO HAD BEEN AN OVERFLIGHT OF THE U.S. BY A CUBANA AIRLINES PLANE ON FEBRUARY 16-17.

2. THE PLANE WHICH OVERFLEW ON FEBRUARY 25 WAS SCHEDULED TO RETURN TO HAVANA FEB. 27. FAA PASSED A MESSAGE TO THE CAPTAIN STATING THAT THE STATE DEPARTMENT HAD NOT RECEIVED A REPLY TO ITS FEBRUARY 25 NOTE AND CLEARANCE COULD NOT BE GRANTED UNTIL SUCH A REPLY HAS BEEN RECEIVED. THE PLANE THEREUPON RETURNED TO HAVANA VIA NOVA SCOTIA, BY-PASSING US TERRITORY. A SIMILAR CUBANA FLIGHT IS DUE TO FLY FROM MONTREAL TO HAVANA FEB. 28 AND WE HAVE BEEN TOLD BY THE CANADIANS THAT IT WILL ALSO FLY VIA NOVA SCOTIA.

3. WE DO NOT KNOW WHETHER THE CUBANS BLINKED OR WHETHER
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THEY WERE PERSUADED TO AVOID A CONFRONTATION BY THE

CANADIANS. IT MAY BE THAT THE CUBAN CAPTAIN SIMPLY MADE THE RE-ROUTING DECISION ON HIS OWN FOLLOWING DENIAL OF U.S. AIR SPACE.

4. THE NEXT OVERFLIGHT POSSIBILITY WILL BE ON MARCH 3-4 WHEN CUBANA AIRLINES ONCE WEEKLY HAVANA-MONTREAL-HAVANA SCHEDULED SERVICE IS DUE TO COMMENCE, UNLESS AN EFFORT IS MADE WITH TOMORROW'S FLIGHT TO TRANSIT U.S. TERRITORY.

5. UNDER TERMS OF A U.S. NOTE TO THE CUBANS DATED APRIL 6, 1973, THEY MUST NOTIFY US THROUGH DIPLOMATIC CHANNELS TWO WORKING DAYS IN ADVANCE OF ANY INTENTION TO OVERFLY. UNLESS CUBAN NOTIFICATION IS RECEIVED BY MARCH 1 WE WILL BE UNDER NO OBLIGATION TO CLEAR THE MARCH 3 FLIGHT.

6. IF, HOWEVER, THE CUBANS DO NOTIFY US BY MARCH 1, WE SHALL FIND IT DIFFICULT BOTH ON LEGAL AND PRACTICAL GROUNDS TO OPPOSE THE REGULAR OVERFLIGHTS, BECAUSE 35-50 U.S. COMMERCIAL AIRCRAFT OVERFLY CUBA DAILY UNDER THE PROVISION OF THE INTERNATIONAL AIR SERVICES TRANSIT AGREEMENT AND THE CHICAGO CONVENTION, TO WHICH BOTH THE U.S. AND CUBA ARE PARTIES. INGERSOLL

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